

REMARKS

I. Interview with Examiner

The undersigned attorney thanks the Patent Examiner for the courtesy of permitting an interview in this case. The discussion focused on Applicants' assertion that having one vertical strap support enhances the disclosed cover's ability to resist displacement caused by wind. The Examiner suggested that Applicants provide additional relevant data via a declaration.

II. Claim Rejections under 35 U.S.C. § 112

The Examiner has rejected claims 1-14 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The Examiner notes that "[w]ith respect to the optimizing relocation of forces, by physical laws, it seems that having more than one strap support would provide added security to the cover since the wind force on the cover would evenly distribute over the securing strap." Applicants are not able to provide a declaration setting forth results of empirical testing and additional relevant data at this time; however, Applicants present relevant data and arguments below for the Examiner's consideration.

Applicants have performed substantial empirical testing of the commercial embodiment of the design disclosed in the application at issue in comparison to other designs on the market, including those having multiple strap supports securing the top portion of the cover. Such empirical testing has shown Applicants' design to be able to withstand higher peak wind conditions than other tested designs. The benefits of this design have also been reflected in

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significant commercial success of the commercial embodiment of the invention disclosed in the application at issue.

Applicants believe that the structural benefits of the design stem primarily from the concentration of vertical force along a single path, such as that created by the single point of contact between the securing strap and the first and second support straps on respective sides of the cover claimed in the application at issue. In actual use, covers such as these are required resist displacement when exposed to strong gusts of wind, which cause a ripple of force to pass through the cover.

These forces created by the wind are countered in part by vertical securing forces acting over the top of the module. The vertical securing forces result from friction between horizontal support straps and the module. This vertical securing force supplied by friction is finite, and what Applicant has found is that concentrating this available vertical force along a single path is more effective at countering the ripples of force created by the wind, and thereby resisting displacement, than distributing the vertical force along multiple paths, or evenly distributing it along the entire length of the module. That is to say, empirical testing suggests that a single large vertical force across the top of the module is more effective than multiple smaller forces across the top of the module at hindering the forces created by wind and resisting displacement of the cover.

Accordingly, Applicant submits that a finding, based on substantial empirical testing, that a concentration of the available vertical force along a single path is more effective at resisting displacement caused by wind than distributing the available vertical force does not contradict physical laws. As such, Applicant respectfully requests that this refusal be withdrawn.

III. Rejections under 35 U.S.C. § 103

A. Rejection of Claim 8

Claim 8 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Porter (U.S. 5,904,243) (“Porter ‘243”), and in view of Frieder et al. (U.S. 3,011,820) (“Frieder ‘820”). In support of this rejection, the Office action notes that “[i]t would have been obvious to one of ordinary skill in the art to provide only one support to provide the desired number of support and/or to save material. Furthermore, it would have been obvious to one of ordinary skill in this art to eliminate the other when its function is not desired.”

Applicant respectfully submits that the provision of only one support to optimize relocation of forces and enhance the covers ability to withstand peak wind conditions is not obvious. According to the Office action itself “it seems that having more than one strap support would provide added security to the cover since the wind force on the cover would evenly distribute over the securing strap.” This sentiment is mirrored in the prior art which teaches away from using a single vertical strap support. As shown in the language of the Office action and the teaching of the prior art, the structural benefits of utilizing a single strap, and thereby concentrating the vertical forces over the top of the module, were an unexpected result.

The Office action further suggests that “[i]t would have been obvious to one of ordinary skill in the art to provide only one support to provide the desired number of support and/or to save material. Furthermore, it would have been obvious to one of ordinary skill in the art to eliminate the other when its function is not desired.” The material costs of adding another support would generally be extremely small in relation to the cost of the cover and would not

provide sufficient motivation to one skilled in the art to reduce the number of supports.

Furthermore, the function of the multiple straps was desired in the prior art as shown by Porter '243 teaching away from the use of a single vertical strap, presumably due to an intuitive belief that multiple vertical straps are more effective. However, by reducing the number of vertical supports to one, Applicant has not merely eliminated an undesired function, it has enhanced the overall performance of the cover. This is an unexpected and non-obvious result.

Alternatively, the Office action notes that Frieder '820 teaches that it is known in the art to provide the sides with only one support. However, Frieder '820 discloses only a cargo net. As described in Frieder '820, "[c]argo nets have long been in use as a means for transferring cargo, equipment, and the like from ship to shore, from ship to ship and for other like uses. Such nets are also used to hold down cargo on the deck of an aircraft or the like to prevent shifting." *See* Frieder '820, Col. 1, Lines 13-17. A cargo net is not related to "a cover for a module of fibrous material." Cargo nets merely hold items in place or transfer cargo; they do not cover items or protect them from rain and the like. Cargo nets are also generally meshed, and therefore are not significantly affected by wind forces. The forces acting on a cargo net are generally due to shifting or moving of items, not gusts of wind. Thus, both the function and the nature of forces experience by cargo nets is completely unrelated to the cover at issue. As such, there would be no motivation for one skilled in the art to look to Frieder '820 when designing a cover for modules of fibrous materials.

Accordingly, Applicant submits that the use of a single vertical strap on the claimed cover is non-obvious and respectfully requests that this refusal be withdrawn.

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B. Rejection of Claim Nos. 1-3, 5, 6, 9-11, 13 and 14

The Examiner has rejected Claims Nos. 1, 3, 5, 6, 9-11, 13 and 14 under 35 U.S.C. §103(a) as being unpatentable over Porter '243, or in the alternative, under 35 U.S.C. 103(a) as being unpatentable over Porter '243 in view of Horwath '846 or Gallagher '905. In support of this rejection, the Office action notes:

With respect to support strap at the midpoint, to have the only on support strap in the modified cover of Porter to be placed at the midpoint at the corresponding side walls would have been obvious to provide the desired placement of the support strap. Furthermore, rearrange parts of an invention involves only routine skill in the art, see *In Re Japikse*, 86 USPQ 70 (CCPA) 1950.

As discussed in Sections II and III(A), *supra*, Applicant submits that the use of a single vertical support strap to enhance the performance of the cover is non-obvious. The prior art teaches away from the use of a single strap, and the benefits of using a single strap were an unexpected result. Accordingly, Applicant respectfully requests that this refusal be withdrawn.

C. Rejection of Claim Nos. 4, 7 and 12

The Examiner has rejected claims 4, 7 and 12 under 35 U.S.C. 103(a) as being unpatentable over Porter '243 in view of either Campbell '461 or Frieder '820. Independent claim 7 includes, and dependent claims 4 and 12 depend from claims that include, the limitation of no more than one point of contact between the securing strap and the first and second support straps on respective sides of the module. As discussed in Sections II and III(A), *supra*, Applicant submits that the use of a single vertical support strap to enhance the performance of the cover is

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non-obvious. The prior art teaches away from the use of a single strap, and the benefits of using a single strap were an unexpected result. Accordingly, Applicant respectfully requests that this refusal be withdrawn.

IV. Conclusion

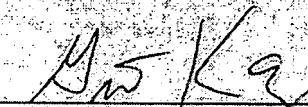
Applicants respectfully submit that the independent claims are allowable over the prior art of record, including the cited references. For similar reasons, and for the additional reasons set forth above, Applicants urge that the dependent claims are also allowable.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,



By: Grant D. Kang, Reg. No. 37,651
Husch & Eppenger, LLC
190 Carondelet Plaza
St. Louis, MO 63105
314-480-1640
314-480-1505 FAX